

HOUSE BILL 1789
By Briley

AN ACT to amend Tennessee Code Annotated, Title 35, Chapter 5.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 35-5-101, is amended by deleting subsection (a) in its entirety and by substituting instead the following:

(a) In any sale of land to foreclose a deed of trust, mortgage or other lien securing payment of money or other thing of value or under judicial orders or process, advertisement of such sale shall be made:

(1) By advertising at least three (3) different times in some newspaper in the county where the sale is to be conducted;

(2) By posting continuous notice at the courthouse in the county where the land is located; and

(3) By posting notice on the Internet continuously for the twenty-day period prior to the sale. The Internet site upon which the notice is posted shall be a dedicated website upon which foreclosure notices are posted and shall be easily located by searching the Internet using the term "Tennessee foreclosure".

SECTION 2. Tennessee Code Annotated, Section 35-5-101(b), is amended by deleting the subsection in its entirety and by substituting instead the following:

(b) The first publication shall be at least twenty (20) days prior to the sale. The posting of such notice at the courthouse shall provide a certificate of such posting, certifying that such posting was accomplished and that such notice has been continuous for the twenty-day period. The posting of such notice on the Internet shall provide a certificate that such posting complies with the provisions of this act.

SECTION 3. Tennessee Code Annotated, Section 35-5-101, is further amended by adding the following as new subsection (e):

(e) In addition to the requirements of section 35-5-104(b), a deed issued pursuant to a foreclosure or proceeding by judicial order shall contain as an exhibit an affidavit from the trustee or officer proceeding by judicial order, a sworn statement that the requirements of § 35-5-101(a) and (b) have been satisfied, and the manner in which compliance has been accomplished. Any person who acts in reliance on this sworn statement without actual knowledge that the representations contained therein are incorrect is not liable to any person for so acting. A person who does not have actual knowledge that the facts contained in the sworn statement are incorrect may assume without inquiry the existence of the facts contained therein. Nothing herein shall be construed to require a third party's reliance upon the sworn statement or to preclude a third party from demanding that the trustee or officer proceeding by judicial order provide additional information concerning such compliance.

SECTION 4. This act shall take effect on July 1, 2003, the public welfare requiring it.